

HIGHLIGHTS OF 1965 BILL FOR GENERAL REVISION OF THE U. S. COPYRIGHT LAW

In February, 1965, a new bill for general revision of the U. S. copyright law was introduced in the 89th Congress. The new 1965 bill, the highlights of which appear below, is in most major respects the same as the general revision bills introduced in the 88th Congress (S. 3008, H. R. 11947, H. R. 12354). There have been a number of technical changes intended to improve or clarify the language of the bill, and a few changes on matters of substance. Comments on the provisions of the bill may be sent to the chairmen of the House and Senate Judiciary Committees or to the Copyright Office.

Single national system. Instead of the present dual system of protecting works under the common law before they are published and under the Federal statute after publication, the bill would establish a single system of statutory protection for all works whether published or unpublished.

Duration of term. The present term of copyright is 28 years from first publication or registration, renewable by certain persons for a second period of 28 years. The bill provides for a term of the author's life plus 50 years, in order to bring it into line with the copyright term in most countries. For anonymous works and works made for hire, the term would be 75 years from publication, with a maximum limit of 100 years from creation of the work. The life-plus-50 or the 100-year term would apply to unpublished works, which are now protected under the common law without time limit.

Limitation on author's assignments. Under the present law, the renewal copyright after the first term of 28 years reverts in certain situations to the author or other specified beneficiaries. The bill drops this renewal device, but permits the author or his widow and children to terminate a grant of his rights after 35 years (or up to 40 years in certain situations) by serving written notice on the grantee. Grantees who have made derivative works during the 35 years could continue to use them.

Sound recordings. Sound recordings would be added to the list of protected works, but the exclusive rights would be limited to protection against actual duplication and the sale of "dubbed" records.

Government publications. The revised bill continues the prohibition in the present law against copyright in "Government publications" and provides for no exceptions, but it attempts to clarify the scope of the prohibition.

Fair use. The bill would add a provision to the statute specifically recognizing the doctrine of fair use, but without any attempt to indicate the application or define the scope of the doctrine.

Compulsory license. The bill would modify the present compulsory license for the recording of music. It would, among other things, increase the statutory royalty ceiling and provide a broader recovery against infringers.

Exempt performances. The bill removes the present exemption of public performances of nondramatic literary and musical works where the performance is not "for profit." Instead, it provides specific exemptions for certain types of nonprofit uses, including performances in classrooms and "in-school" educational broadcasting. The revised bill would give broadcasting organizations a limited privilege of making "ephemeral recordings" of their broadcasts.

Jukebox exemption. The bill includes the text of the jukebox bill which was favorably reported by the Judiciary Committee of the House of Representatives in 1963 and has been reintroduced in the 89th Congress. It would repeal the present exemption of jukebox operators from payment of performance royalties.

Notice of copyright. The statute now requires, as a condition of copyright protection, that the published copies of a work bear a copyright notice. The bill calls for a notice on published copies, but omission or errors would not forfeit the copyright. Innocent infringers misled by the omission or error would be shielded from liability.

Registration. As under the present law, registration would not be a condition of copyright protection but would be a prerequisite to an infringement suit. In general, the extraordinary remedies of statutory damages and attorney's fees would not be available for infringements occurring before registration.

Manufacturing clause. Certain works must now be manufactured in the United States to have copyright protection here. The bill proposes several modifications that would narrow the scope of this clause and would permit the importation of 3,500 copies manufactured abroad instead of the present limit of 1,500 copies.